APPENDIX

Revenue Act of 1936, c. 690, 49 Stat. 1648:

SEC. 351. SURTAX ON PERSONAL HOLDING COMPANIES. [As amended by Section 1, Revenue Act of 1937, c. 815, 50 Stat. 813]

There shall be levied, collected, and paid, for each taxable year (in addition to the taxes imposed by Title I), upon the undistributed adjusted net income of every personal holding company a surtax equal to the sum of the following:

* * * * *

SEC. 352. DEFINITION OF PERSONAL HOLDING COMPANY. [As amended by Section 1, Revenue Act of 1937, *supra.*]

(a) *General Rule.*—For the purposes of this title and of Title I the term "personal holding company" means any corporation if—

(1) *Gross Income Requirement.*—At least 80 per centum of its gross income for the taxable year is personal holding company income as defined in section 353; but if the corporation is a personal holding company with respect to any taxable year, then, for each subsequent taxable year, the minimum percentage shall be 70 per centum in lieu of 80 per centum, until a taxable year during the whole of the last half of which the stock ownership required by paragraph (2) does not exist, or until the expiration of three consecutive taxable years in each of which less than 70 per centum of the gross

income is personal holding company income; and

(2) *Stock Ownership Requirement.*—At any time during the last half of the taxable year more than 50 per centum in value of its outstanding stock is owned, directly or indirectly, by or for not more than five individuals.

* * * * *

SEC. 353. PERSONAL HOLDING COMPANY INCOME. [As amended by Section 1, Revenue Act of 1937, *supra.*]

For the purposes of this title the term "personal holding company income" means the portion of the gross income which consists of:

* * * * *

(g) *Rents.*—Rents, unless constituting 50 per centum or more of the gross income. For the purposes of this subsection the term "rents" means compensation, however designated, for the use of, or right to use, property; but does not include amounts constituting personal holding company income under subsection (f).

(h) *Mineral, Oil, or Gas Royalties.*—Mineral, oil, or gas royalties, unless (1) constituting 50 per centum or more of the gross income, and (2) the deductions allowable under section 23 (a) (relating to expenses) other than compensation for personal services rendered by shareholders, constitute 15 per centum or more of the gross income.

SEC. 357. MEANING OF TERMS USED. [As amended by Section 1, Revenue Act of 1937, *supra.*]

The terms used in this title shall have the same meaning as when used in Title 1.

Treasury Regulations 94, promulgated under the Revenue Act of 1936:

> ART. 353–1. *Personal holding company income.*—[As amended by T. D. 4791, 1938–1 Cum. Bull. 83, 102–104, to accord with the Revenue Act of 1937.] The term "personal holding company income" means the portion of the gross income which consists of the following:
>
> * * * * *
>
> (3) *Royalties (other than mineral, oil, or gas royalties).*—The term "royalties" includes amounts received for the privilege of using patents, copyrights, secret processes and formulas, good will, trade marks, trade brands, franchises, and other like property. It does not include rents, nor overriding royalties received by an operating company. As used in this paragraph the term "overriding royalties" means amounts received from the sublessee by the operating company which originally leased and developed the natural resource property in respect of which such overriding royalties are paid.
>
> * * * * *
>
> (10) *Rents.*—The rents which are to be included in personal holding company income consist of compensation, however designated, including charter fees, etc., for the use of, or the right to use, real property, or any other kind of property, but do not include amounts constituting personal holding company income under section 353 (f) and paragraph (9) of this article. However, rents do not constitute personal holding company income if constituting 50 per cent or more of the gross income of the corporation.

(11) *Mineral, oil, or gas royalties.*—The income from mineral, oil, or gas royalties is to be included as personal holding company income, unless (A) the aggregate amount of such royalties constitutes 50 per cent or more of the gross income of the corporation for the taxable year and (B) the aggregate amount of deductions allowable for expenses under section 23 (a) (other than compensation for personal services rendered by the shareholders of the corporation) equals 15 per cent or more of the gross income of the corporation for the taxable year.

The term "mineral, oil, or gas royalties" means all royalties, except overriding royalties, received from any interest in mineral, oil, or gas properties. The term "mineral" includes the ores specified in paragraph (d) of article 23 (m)–1. As used in this paragraph the term "overriding royalties" means amounts received from the sublessee by the operating company which originally leased and developed the natural resource property in respect of which such overriding royalties are paid.

U. S. GOVERNMENT PRINTING OFFICE: 1945